

DECISIONS PER CURIAM, FROM APRIL 10, 1923,
TO AND INCLUDING JUNE 11, 1923, NOT IN-
CLUDING ACTION ON PETITIONS FOR WRITS
OF CERTIORARI.

No. 805. *LEHIGH & HUDSON RIVER RAILWAY COMPANY v. FLORENCE M. OTTERSTEDT*, ON BEHALF OF HERSELF AND MINOR CHILDREN. Petition for a writ of certiorari to the Third Department, Appellate Division, of the Supreme Court of the State of New York. April 16, 1923. Petition for a rehearing herein granted. *Mr. John J. Beattie* for petitioner. *Mr. E. Clarence Aiken* for respondent. [See 261 U. S. 619; also *post*, 747.]

No. 634. *STEFANO SANGUINETTI v. UNITED STATES*. Appeal from the Court of Claims. Motion submitted April 9, 1923. Decided April 16, 1923. Motion to reinstate this case on the docket granted. *Mr. Benjamin Carter* for appellant. *The Attorney General* for the *United States*. [See 261 U. S. 626.]

No. —, Original. *Ex parte*: *IN THE MATTER OF ADOLPH PALEAIS*, PETITIONER. April 16, 1923. Motion for leave to file petition for a writ of habeas corpus denied, without prejudice to an application to the District Court. *Mr. Barnett E. Kopelman* and *Mr. Joseph G. M. Browne* for petitioner.

No. 367. *VICTOR RAYMOND HAMMAER v. UNITED STATES*. Error to the District Court of the United States for the District of Oregon. Submitted April 9, 1923. Decided April 16, 1923. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of *Zucht v. King*, 260 U. S. 174. *Mr. Will R. King* and *Mr. Paul Dormitzer* for

plaintiff in error. *Mr. Solicitor General Beck, Mr. Assistant Attorney General Crim and Mr. Clifford H. Byrnes* for the United States.

No. 370. *CHARLES I. STAGER v. UNITED STATES*. Appeal from the Court of Claims. Submitted April 9, 1923. Decided April 16, 1923. *Per Curiam*. Affirmed upon the authority of *Nicholas v. United States*, 257 U. S. 71. *Mr. Edwin R. Wakefield* for appellant. *Mr. Solicitor General Beck and Mr. Assistant Attorney General Lovett* for the United States.

No. 366. *J. A. CAMPBELL v. STATE OF NORTH CAROLINA*. Error to the Supreme Court of the State of North Carolina. Submitted April 10, 1923. Decided April 16, 1923. *Per Curiam*. Affirmed upon the authority of *Vigliotti v. Pennsylvania*, 258 U. S. 403. *Mr. Theodore F. Davidson and Mr. Louis M. Bourne* for plaintiff in error. *Mr. James S. Manning and Mr. Frank Nash* for defendant in error.

No. 522. *JAY BURNS BAKING COMPANY ET AL. v. SAMUEL R. MCKELVIE, AS GOVERNOR OF THE STATE OF NEBRASKA, ET AL.* Error to the Supreme Court of the State of Nebraska. April 16, 1923. *Per Curiam*. Motion to substitute the new governor, Charles W. Bryan, for the ex-governor, Samuel R. McKelvie, and to substitute the new secretary of the department of agriculture, Grant Shumway, for the ex-secretary, Leo B. Stuhr, is granted on the ground that such substitution is authorized by § 8546, Comp. Stats. Neb. 1922, as construed and applied by the Supreme Court of Nebraska. *Mr. Matthew A. Hall and Mr. Carrol S. Montgomery* for plaintiffs in error. No appearance for defendants in error. [See 261 U. S. 608.]

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No. 978. MAGNUM IMPORT COMPANY, INC. *v.* FRANCOIS JOSEPH DE SPOTURNO COTY;

No. 979. MAX L. COHN, TRADING AS MACLEN IMPORT COMPANY, *v.* FRANCOIS JOSEPH DE SPOTURNO COTY;

No. 980. ARTHUR BAUM ET AL., TRADING AS BEAUTEX COMPANY, *v.* FRANCOIS JOSEPH DE SPOTURNO COTY;

No. 981. MAGNUM IMPORT COMPANY, INC. *v.* HOUBIGANT, INC.; and

No. 982. IVORY NOVELTIES TRADING COMPANY, INC. *v.* FRANCOIS JOSEPH DE SPOTURNO COTY. Argued on return to rule to show cause April 16, 17, 1923. Order entered April 17, 1923. On consideration of the petitions for suspending orders herein, and of the argument of counsel thereupon had, it is now here ordered by this Court that the said petitions be, and the name are hereby, denied. *Mr. Charles H. Tuttle*, with whom *Mr. Isaac Reiss* and *Mr. William J. Hughes* were on the briefs, for petitioners. *Mr. Asher Blum*, with whom *Mr. Hugo Mock* was on the briefs, for Coty. *Mr. George S. Hornblower*, with whom *Mr. Lindley M. Garrison* and *Mr. Raoul E. Desvernine* were on the brief, for Houbigant, Inc. [See *ante*, 159, *post*, 738.]

No. —, Original. *Ex parte*: IN THE MATTER OF TAUBEL-SCOTT-KITZMILLER COMPANY, PETITIONER. April 30, 1923. The motion for leave to file a petition for a writ of prohibition herein is denied. *Mr. Frank J. Hogan* for petitioner.

No. 288. JOE BONNER *v.* J. C. MIDDLEBROOKS, SHERIFF OF JONES COUNTY, GEORGIA. Appeal from the District Court of the United States for the Southern District of Georgia. Argued April 25, 1923. Decided April 30, 1923. *Per Curiam*. Dismissed with costs for want of jurisdic-

tion upon the authority of *Farrell v. O'Brien*, 199 U. S. 89, 100; *Empire State-Idaho Mining Co. v. Hanley*, 205 U. S. 225, 232; *Toop v. Ulysses Land Co.*, 237 U. S. 580, 583; *Piedmont Power & Light Co. v. Graham*, 253 U. S. 193, 195. *Mr. John Randolph Cooper*, with whom *Mr. W. O. Cooper, Jr.*, was on the brief, for appellant. *Mr. George M. Napier* and *Mr. Seward M. Smith*, for appellee, submitted.

No. 880. *CHARLES GLEN COLLINS v. VICTOR LOISEL, UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF LOUISIANA*. Appeal from the District Court of the United States for the Eastern District of Louisiana. Argued May 4, 1923. Decided May 4, 1923. *Per Curiam*. Judgment affirmed with costs, and mandate ordered to issue forthwith. *Mr. J. Zach Spearing* for appellant. *Mr. Robert H. Marr* appeared for appellee. [See *ante*, 426.]

No. 665. *LAURA LYON v. CHARLES B. LOHMILLER, AS SUPERINTENDENT AND DISBURSING AGENT, ETC.* Appeal from the District Court of the United States for the District of Nebraska. Motion to dismiss or affirm submitted April 30, 1923. Decided May 7, 1923. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of: (1) *Equitable Life Assurance Society v. Brown*, 187 U. S. 308, 314; *Consolidated Turnpike Co. v. Norfolk, etc., Ry. Co.*, 228 U. S. 596, 600; *Manhattan Life Ins. Co. v. Cohen*, 234 U. S. 123, 137; *Pennsylvania Hospital v. Philadelphia*, 245 U. S. 20, 24. (2) *Anchor Oil Co. v. Gray*, 256 U. S. 519, 522; *Blanset v. Cardin*, 256 U. S. 319. *Mr. Charles J. Kappler* and *Mr. Hiram Chase* for appellant. *Mr. Solicitor General Beck*, *Mr. Assistant Attorney General Riter* and *Mr. H. L. Underwood* for appellee.

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NO. 96. TAGGARTS PAPER COMPANY *v.* STATE OF NEW YORK. Error to the Court of Claims of the State of New York. Argued April 26, 27, 1923. Decided May 7, 1923. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of *New York Central R. R. Co. v. New York*, 186 U. S. 269, 273; *Consolidated Turnpike Co. v. Norfolk, etc., Ry. Co.*, 228 U. S. 326, 331; *Thomas v. Iowa*, 209 U. S. 258, 263. *Mr. Adelbert Moot and Mrs. Helen Z. M. Rodgers*, with whom *Mr. William L. Marcy* was on the briefs, for plaintiff in error. *Mr. Irving I. Goldsmith*, with whom *Mr. Carl Sherman and Mr. Claude T. Dawes* were on the brief, for defendant in error.

NO. 556. WILLIAM C. OLANDER *v.* T. P. HOLLOWELL. Error to the Supreme Court of the State of Iowa. Motion to dismiss or affirm submitted May 7, 1923. Decided May 21, 1923. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of *Farrell v. O'Brien*, 199 U. S. 89, 100; *Empire State-Idaho Mining Co. v. Hanley*, 205 U. S. 225, 232; *Toop v. Ulysses Land Co.*, 237 U. S. 580, 583; *Piedmont Power & Light Co. v. Graham*, 253 U. S. 193, 195. *Mr. Robert Healy* for plaintiff in error. *Mr. Maxwell A. O'Brien, Mr. B. J. Flick and Mr. Ben J. Gibson* for defendant in error.

NO. 409. UNION STOCK YARDS COMPANY OF OMAHA, LTD. *v.* MAYHALL & NEIBLE, A COPARTNERSHIP, ET AL., ETC. Error to the Supreme Court of the State of Nebraska. Motion to dismiss submitted May 7, 1923. Decided May 21, 1923. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of § 237 of the Judicial Code, as amended by the Act of September 6, 1916, c. 448, § 2, 39 Stat. 726; *Jett Bros. Distilling Co. v. Carrollton*,

252 U. S. 1, 5-6. *Mr. Norris Brown and Mr. Irving F. Baxter* for plaintiff in error. *Mr. A. A. McLaughlin, Mr. Francis A. Brogan, Mr. Alfred G. Ellick, Mr. Anon Raymond, Mr. Bruce Scott and Mr. Byron Clark* for defendants in error. [See *post*, 757.]

No. 629. *A. N. LEECRAFT v. TEXAS COMPANY*. Error to the Circuit Court of Appeals for the Eighth Circuit. Motion to dismiss submitted April 30, 1923. Decided May 21, 1923. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of: (1) *Equitable Life Assurance Society v. Brown*, 187 U. S. 308, 311; *Merriam Co. v. Syndicate Publishing Co.*, 237 U. S. 618, 621; (2) *Southern Ry. Co. v. Greene*, 216 U. S. 400; *American Smelting Co. v. Colorado*, 204 U. S. 103. *Mr. George F. Short and Mr. C. W. King* for plaintiff in error. *Mr. C. B. Ames* for defendant in error.

No. 919. *FIRST NATIONAL BANK IN ST. LOUIS v. STATE OF MISSOURI AT THE INFORMATION OF JESSE W. BARRETT, ATTORNEY GENERAL*. Error to the Supreme Court of the State of Missouri. Argued May 7, 1923. Order entered May 21, 1923. It is ordered that this cause be restored to the docket for reargument, at the next term, on the issue whether the State had authority to institute and maintain a proceeding to question compliance by a national bank with its charter. *Mr. Frank H. Sullivan*, with whom *Mr. James C. Jones, Mr. Wm. J. Hughes and Mr. Lon O. Hocker* were on the briefs, for plaintiff in error. *Mr. Merrill E. Otis and Mr. Harold R. Small*, with whom *Mr. Jesse W. Barrett, Mr. Wm. T. Jones, Mr. Marion C. Early, Mr. Sam Jeffries and Mr. Edward J. Foristel* were on the briefs, for defendant in error.

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No. —, Original. *Ex parte*: IN THE MATTER OF HENRY WOODHOUSE, ETC., PETITIONER. June 4, 1923. Motion for leave to file petition for writ of mandamus herein denied. *Mr. Henry Woodhouse pro se.*

No. 552. GUARANTY TITLE & TRUST CORPORATION, RECEIVER, ETC. *v.* UNITED STATES. Appeal from the Court of Claims. Motion submitted May 21, 1923. Order entered June 4, 1923. Motion of Norfolk Hampton Roads Company for leave to intervene as a party appellee in this case granted. The appellant to give bond in the amount of \$3,000, bond to run in the name of the United States for the benefit of the Norfolk Hampton Roads Company to secure the payment of costs of the appeal as well as interest on \$33,000, constituting that part of the judgment recovered by the Norfolk Hampton Roads Company, payment of which has been withheld in consequence of the appeal. *Mr. H. H. Rumble* for Norfolk Hampton Roads Company. *Mr. R. B. Tunstall, Mr. Edward R. F. Wells* and *Mr. Wm. Leigh Williams* for appellant. *The Attorney General* for the United States.

No. 574. LION BONDING & SURETY COMPANY *v.* A. H. KARATZ; and

No. 467. DEPARTMENT OF TRADE & COMMERCE OF THE STATE OF NEBRASKA ET AL. *v.* A. J. HERTZ ET AL., AS RECEIVERS OF LION BONDING & SURETY COMPANY. Certiorari to the Circuit Court of Appeals for the Eighth Circuit. Motion submitted May 21, 1923. Decided June 4, 1923. Motion to modify decree denied. *Mr. Bruce W. Sanborn, Mr. William G. Graves, Mr. Samuel G. Ordway* and *Mr. William R. Kueffner*, for respondents, in support of the motion. *Mr. Halleck F. Rose, Mr. O. S. Spillman, Mr. John F. Stout, Mr. Arthur R. Wells, Mr. Paul L. Mar-*

tin and *Mr. Amos Thomas*, for petitioners, in opposition to the motion. [See *ante*, pp. 77, 640.]

No. —, Original. *Ex parte*: IN THE MATTER OF JESSE C. RUMSEY, PETITIONER. June 4, 1923. Motion for leave to file a petition for a writ of habeas corpus herein denied. *Mr. Jesse C. Rumsey* pro se.

No. 876. JAMES C. DAVIS, AS AGENT, ETC. *v.* W. M. SCROGGINS. Error to the Circuit Court of Appeals for the Fifth Circuit. Motion to dismiss or affirm submitted May 7, 1923. Decided June 4, 1923. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of § 3 of the Act of September 6, 1916, c. 448, 39 Stat. 726, 727. *Mr. Ras Young* and *Mr. George Thompson* for plaintiff in error. *Mr. Cone Johnson*, *Mr. James W. Edwards* and *Mr. Fred V. Hughes* for defendant in error.

No. —, Original. UNITED STATES *v.* STATE OF OKLAHOMA. June 11, 1923. Motion for leave to file bill of complaint herein denied. *The Attorney General*, *Mr. Solicitor General Beck* and *Mr. Alfred A. Wheat* for the United States.

No. —. W. J. BLAIR *v.* F. RORER'S ADMINISTRATOR ET AL. June 11, 1923. Motion for leave to file a petition for a writ of error herein to the Supreme Court of Appeals of the State of Virginia denied. *Mr. Aubrey E. Strode* for plaintiff in error.

No. 274. WILLIAM RANDALL ET AL. *v.* BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY, INDIANA. Error to

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the Supreme Court of Indiana. Motion submitted June 4, 1923. Decided June 11, 1923. Motion for leave to file a petition for a writ of error to the Appellate Court of the State of Indiana denied. *Mr. Otto Gresham* for plaintiffs in error. *Mr. Clyde H. Jones* and *Mr. D. P. Flanagan* for defendant in error. [See 261 U. S. 252.]

No. 498. JAMES K. COCHRAN AND HARRIS KOBAY v. COULTON M. BECKER. Error to the Circuit Court of Appeals for the Eighth Circuit. Motion submitted June 4, 1923. Decided June 11, 1923. Motion to rescind judgment and for stay of mandate herein denied. *Mr. Harris Kobey* pro se. *Mr. Oliver J. Miller* for defendant in error. [See 261 U. S. 607.]

No. 640. UNITED STATES EX REL. CATONI TISI, ALIAS LISTA CORTINA, v. ROBERT E. TOD, COMMISSIONER OF IMMIGRATION AT THE PORT OF NEW YORK. Appeal from the District Court of the United States for the Southern District of New York. Motion submitted June 4, 1923. Decided June 11, 1923. Motion to reinstate this case on the docket granted. *Mr. Isaac Shorr* and *Mr. Walter Nelles* for appellant. *The Attorney General* for appellee. [See 261 U. S. 626.]

No. 87. McLANE TILTON v. FELIX M. DRENNEN, AS RECEIVER, ETC. Appeal from the Circuit Court of Appeals for the Fifth Circuit. Stipulation submitted June 4, 1923. Order entered June 11, 1923. On consideration of the stipulation to reinstate this cause on the docket and reverse on confession of error, it is now here ordered that said cause be reinstated on the docket; and that the decree be reversed upon such confession of error. *Mr. Forney Johnston* for appellant. *Mr. H. L. Stevens* and *Mr. Joseph E. Johnson* for appellee. [See 261 U. S. 624.]

No. 656. EIGHTH AVENUE RAILROAD COMPANY *v.* JOB E. HEDGES, AS RECEIVER OF THE NEW YORK RAILWAYS COMPANY; and

No. 657. NINTH AVENUE RAILROAD COMPANY *v.* JOB E. HEDGES, AS RECEIVER OF THE NEW YORK RAILWAYS COMPANY. Appeals from the Circuit Court of Appeals for the Second Circuit. Motion to dismiss submitted June 4, 1923. Decided June 11, 1923. *Per Curiam*. Dismissed for want of jurisdiction upon the authority of *Shulthis v. McDougal*, 225 U. S. 561, 568; *Hull v. Burr*, 234 U. S. 712, 720; *Delaware, Lackawanna & Western R. R. Co. v. Yurkonis*, 238 U. S. 439, 444; *Begg v. City of New York*, ante, 196. *Mr. Michel Kirkland* and *Mr. Morgan J. O'Brien* for appellants. *Mr. Walter Howe* and *Mr. Bronson Winthrop* for appellee.

PETITIONS FOR CERTIORARI GRANTED, FROM
APRIL 10, 1923, TO AND INCLUDING JUNE 11,
1923.

No. 924. THOMAS HAMMERSCHMIDT ET AL. *v.* UNITED STATES. April 16, 1923. Petition for a writ of certiorari to the Circuit Court of Appeals for the Sixth Circuit granted. *Mr. Joseph W. Sharts* for petitioners. *Mr. Solicitor General Beck*, *Mr. Assistant Attorney General Crim* and *Mr. Harry S. Ridgely* for the United States.

No. 935. HARRY H. WEISS, COLLECTOR OF INTERNAL REVENUE, *v.* LOUIS STEARN. April 23, 1923. Petition for a writ of certiorari to the Circuit Court of Appeals for the Sixth Circuit granted. *Mr. Solicitor General Beck*, *Mrs. Mabel Walker Willebrandt*, Assistant Attorney General, and *Mr. John C. Hayes* for petitioner. *Mr. Charles P. Hine* for respondent.